

AMNESTY INTERNATIONAL

MYANMAR

Briefing Paper

No Return to “Normal”

November 2007

AI Index: ASA 16/037/2007

Introduction

The violent suppression by the Myanmar authorities of peaceful demonstrations in 66 cities country-wide from mid-August through September 2007 provoked international condemnation including an unprecedented consensus of abhorrence and demands for change at the UN Human Rights Council and UN Security Council.

On 7 November the mouthpiece of the government of Myanmar, the *New Light Of Myanmar* website, asserted that “peace and stability is prevailing in the whole nation...[the] situation has returned to normal”.¹ Amnesty International continues to document serious human rights violations, some that took place during the violent suppression between 26-29 September and some committed in the ensuing crackdown that continues. The situation has not returned to normal.

Amnesty International welcomes the 24 October statement of the Myanmar government representative to the UN General Assembly that “Cooperation with the

¹ UN Envoy holds talks with Spokes Authoritative Team of SPDC, meets NPED Minister, Foreign Minister, Religious Affairs Minister, Labour Minister, members of social organizations, representatives of national races, *New Light of Myanmar*, 7 November <http://www.myanmar.com/newspaper/nlm/>

United Nations is a cornerstone of our foreign policy. In that spirit, we continue to cooperate with the Special Rapporteur".²

Amnesty International recognizes that the permission granted by the Myanmar authorities for the first time since 2003 to the Special Rapporteur to visit Myanmar is a positive procedural step toward "establish[ing] direct contacts with the government and with the people of Myanmar, including political leaders deprived of their liberty ... with a view to examining the situation of human rights in Myanmar".³ The organization calls on the Myanmar government to demonstrate this cooperation by now granting the Special Rapporteur, Professor Paulo Sergio Pinheiro, full and unfettered access during his visit. Such access is essential for a credible assessment of the current human rights situation and to monitor the Myanmar authorities' implementation of Resolution S-5/1, passed by the recent Special Session of the Human Rights Council. The visit also presents a first opportunity for the Myanmar authorities to demonstrate their commitment to real and substantive cooperation with the international community through concrete improvements on all human rights issues detailed in this briefing paper.

Resolution S-5/1 called on the Myanmar government *inter alia* to:

"release without delay those arrested and detained as a result of the recent repression of peaceful protests, as well as to release all political detainees in Myanmar, including Daw Aung San Suu Kyi, and to ensure that conditions of detention meet international standards and include the possibility of visiting any detainee."

Full and immediate implementation of Human Rights Council Resolution S-5/1 is a first step towards ensuring respect for and protection of human rights in the country. Amnesty International believes that to date none of the substantive demands set out in the Human Rights Council Resolution, many of which were repeated in the UN Security Council Statement on 11 October, have been met in full.

Based on numerous first-hand accounts from victims and eye-witnesses, this briefing paper outlines some key human rights abuses committed since the start of the crackdown.

² Response by Ambassador H.E. U Thaug Tun, Representative of the Union of Myanmar, to the Oral Presentation by Special Rapporteur Professor Paulo Sergio Pinheiro, in the Third Committee at the 62nd Session of the United Nations General Assembly, on Agenda Item 70 (c): Human Rights Situations and Reports of Special Rapporteurs and Representatives, New York, 24 Oct 2007.

³ UN Human Right Commission Resolution 1992/58 establishing the Special Rapporteur on the Situation of Human Rights in Myanmar, adopted 5 March 1992 without a vote.

Violent Repression through Beatings and Killings⁴

The violent suppression of the September 2007 demonstrations, where Myanmar state security personnel and groups supported by them beat protesters with sticks made of bamboo, rubber, or wood has been widely documented. Victims included monks, as well as men, women, and children who were either directly participating in the protests or were on-lookers in the vicinity. In some cases these beatings were administered indiscriminately, while in other cases the authorities deliberately targeted individuals, chasing them down to beat them. At least one demonstrator, Ko Ko Win, a 22-year-old National League for Democracy (NLD) member, died as a result of injuries sustained when he was beaten near Sule Pagoda in Yangon on 27 September.

In addition to the killing captured on film of Kenji Nagai, the Japanese journalist shot at close range by troops who opened fire on a group of chanting demonstrators, Amnesty International has confirmed that both rubber bullets and live rounds were fired into the crowds of peaceful demonstrators by state security personnel or groups supported by them during the crackdown. This shooting usually but not always followed warning shots fired into the air. The total number of persons hit by such bullets is not known, but Amnesty International has confirmed reports of gunshot wounds caused by live ammunition. For example, Thet Paing Soe and Maung Tun Lynn Kyaw, students at State High School No. 3 in Tamwe, Yangon, were shot and killed on 27 September. Given eye-witness testimony of shots being fired from atop military trucks and from flyover bridges, as well as the profile of the victims, the organization believes that the authorities deliberately targeted real or perceived leaders of the demonstrations.

Violence against peaceful protesters and, in particular, the use of lethal force as anything other than a measure of last resort is contrary to international law.

Shortly after the crackdown ended the Myanmar authorities admitted and continue to maintain, that at least 10 protesters died. While Amnesty International has not been able to confirm the total number of deaths, the organization strongly believes on the basis of interviews and testimonies compiled so far that the official figure is too low. For example the Assistance Association for Political Prisoners, Burma (AAPPB)

⁴ "1. [The Human Rights Council] *Strongly deplors* the continued violent repression of peaceful demonstrations in Myanmar, including through beatings, killings ..." (UN Human Rights Council Resolution S-5/1, Section 1, adopted 2 October 2007 without a vote).

has so far recorded details of 18 deaths during the crackdown.⁵ Amnesty International has also independently interviewed witnesses to some of these incidents.

Amnesty International has confirmed at least two deaths in detention since the crackdown, believed to be on account of the treatment they received during interrogation. Ko Win Shwe, a 42-year-old NLD member, died in Plate Myot Police Centre near Mandalay on 9 October. Amnesty International is disturbed that government authorities cremated his body before notifying his family, thereby preventing any confirmation of reports that he died as a result of torture or other ill-treatment. Likewise, Venerable U Thilavantha, Deputy Abbot of the Yuzana Kyaugthai monastery in Myitkyina, was beaten to death in detention on 26 September, having also been beaten the night before when his monastery was raided.

The organization has also received credible reports of a large number of bodies being burned at the Ye Way municipal crematorium in Yangon during the night on 27-29 September. Sources indicate that it was not usual practice for the crematorium to operate during the hours in question, that normal employees were instructed to keep away, and the facility was operated on those nights by state security personnel or state-supported groups. On at least one night reports indicate some of the deceased being cremated had shaved heads and some had signs of serious injuries.

Amnesty International urges the Myanmar authorities to:

- *account for those killed by providing the names of the victims and the cause of their deaths to the Special Rapporteur and the general public.*
- *allow the Special Rapporteur access to all crematoria and their records, as an initial step toward a full-scale independent investigation into reports of secret cremations by state authorities.*
- *carry out independent, impartial and prompt investigations into all deaths custody.*
- *ensure that those responsible for unlawful killings are brought to justice.*

⁵ See http://www.aappb.org/died_sept_07.html

Arbitrary Detentions, Enforced Disappearances, and Release of Political Detainees⁶

According to the *New Light of Myanmar*, the primary Myanmar government newspaper, 2,927 persons have been detained since the start of the crackdown in September 2007, with 2,836 having been released, and 91 remaining in detention at this time.⁷ Amnesty International believes that these totals are not the full picture. The organization is particularly concerned about the numerous accounts of the use of large capacity informal detention centres, unacknowledged by state authorities which the organization regards as 'secret' facilities. Amnesty International estimates that the number of political prisoners presently detained is about 700. Detainees have included children and at least two pregnant women, seven and three months pregnant respectively.

At least 15 individuals arrested in relation to the peaceful protests since August have been sentenced to prison terms of up to nine and a half years. At least five of these individuals were reportedly tried in proceedings likely to have been closed and grossly flawed, in a court inside Thayet prison, Magway division on 24 and 26 September.⁸

Moreover, Amnesty International is gravely concerned that many of the persons arrested were or continue to be held solely for their participation in peaceful demonstrations. The organisation considers that all persons arrested and detained for the exercise of their right to freedom of expression or assembly in the context of the peaceful demonstrations are prisoners of conscience.

Amnesty International notes with grave concern the longstanding use of arbitrary detention by Myanmar authorities against prisoners of conscience including

⁶ "1. [The Human Rights Council] *Strongly deplores* the continued violent repression of peaceful demonstrations in Myanmar, including through ... arbitrary detentions, and enforced disappearances ..." and "3. [The Human Rights Council] *Also urges* the Government of Myanmar to release without delay those arrested and detained as a result of the recent repression of peaceful protests, as well as to release all political detainees in Myanmar ..."

(UN Human Rights Council Resolution S-5/1, Sections 1 and 3, adopted 2 October 2007 without a vote).

⁷ UN Envoy holds talks with Spokes Authoritative Team of SPDC, meets NPED Minister, Foreign Minister, Religious Affairs Minister, Labour Minister, members of social organizations, representatives of national races, *New Light of Myanmar*, 7 November 2007.

⁸ Democratic Voice of Burma, 10 October 2007. The five included U Pike Ko, a member of the National League for Democracy, and four other residents of Pakokku. See <http://english.dvb.no/news.php?id=537>

Daw Aung San Suu Kyi, U Win Tin, and senior opposition figures from ethnic minority groups, such as U Khun Htun Oo.

The organization has also confirmed that the release of many detainees to date has been conditional on their signing an agreement to refrain from further political activity.

Amnesty International urges the Myanmar authorities to:

- *immediately and unconditionally release all of those who were arrested for exercising their right to freedom of expression or assembly during the crackdown, as well as all prisoners of conscience held before the recent events.*
- *supply the Special Rapporteur and make public the names and full information on all those detained in connection with the crackdown, including their place of detention and the legal basis for their arrest and detention.*
- *supply the Special Rapporteur with full information relating to the trials of those detained during the crackdown who have now been sentenced.*
- *disclose the locations of the formal and informal detention facilities used.*
- *grant the Special Rapporteur full unfettered access to all places of detention and remaining detainees.*
- *provide unconditional guarantees that detainees willing to speak with the Special Rapporteur will not be subject to retaliation.*
- *ensure that all the detainees are held only in official places of detention, and are given immediate access to lawyers, their families and any medical treatment they may require.*

While the numbers of arrests have decreased since 29 September, state security personnel or groups supported by them have continued to search for and detain specific individuals suspected of involvement in the anti-government protests primarily through night raids on homes.

The organization has also confirmed the authorities’ repeated and deliberate resort to arbitrary and unlawful detention of family members or close friends and suspected sympathisers of protesters currently in hiding. This also constitutes “hostage taking” – explicit or implicit pressure on the suspected protestors to come forward as a condition for releasing or not harming the hostage. It is a violation of fundamental rules of international law. For example, before Thet Thet Aung was detained on 19 October, her mother and mother-in-law, otherwise unwanted by the authorities, were arbitrarily detained by Myanmar authorities seemingly to intimidate and pressure Thet Thet Aung to come forward. Both have since been released, though

her mother was kept in detention until 2 November. Similarly, before poet Ko Nyein Thit was detained by Myanmar authorities, his wife, Khin Marlar, was taken into custody on 1 October and not released until 21 October. When Di Nyein Lin evaded arrest on 12 October, the owner of the house in which he was hiding, Thein Aye, was taken in his stead without lawful reason. Di Nyein Lin was detained on 23 October, and Thein Aye remains in custody.

- *Amnesty International urges the Myanmar authorities to immediately cease the systematic and arbitrary imprisonment or deprivation of physical liberty in violation of fundamental rules of international law of suspected sympathizers or family members of protestors as “hostages”.*

Finally, Amnesty International is aware of at least 72 cases of enforced disappearance, where the Myanmar authorities are either unable or unwilling to account for the whereabouts of individuals where there are reasonable grounds to believe that they have been taken into custody by state agents.⁹ Enforced disappearances are a gross violation of fundamental human rights and often serve to disguise other abuses:

- *Amnesty International calls on the Myanmar authorities to immediately investigate and account for those subjected to enforced disappearance.*

Conditions in detention¹⁰ - torture and cruel inhuman and degrading treatment

Amnesty International has confirmed reports of appalling detention conditions which fail to meet international standards on the treatment of prisoners and in fact constitute cruel, inhuman and degrading treatment prohibited under international law. Since the crackdown there have been an increasing number of reports of death in custody as well as beatings, ill-treatment, lack of food, water or medical treatment in overcrowded unsanitary detention facilities across the country. Provision of basic necessities, including food, water, blankets, and access to sleeping space and sanitary

⁹ The AAPPB has compiled a list of such individuals. Amnesty International considers this information has been verified and can be considered reliable. See http://www.aappb.org/disap_sept_07.htm.

¹⁰ “3. [The Human Rights Council] *Also urges* the Government of Myanmar ... to ensure that conditions of detention meet international standards and include the possibility of visiting any detainee;” (UN Human Rights Council Resolution S-5/1, Section 3, adopted 2 October 2007 without a vote).

facilities has been lacking. Amnesty International is particularly disturbed by reports from some released detainees that they were held in degrading conditions in cells designed for holding dogs, commonly known as 'dog cells'.

Individual reports of torture and cruel, inhuman and degrading treatment have been reported to the organization. One recently released detainee testified that he was made to kneel bare-legged for long periods on broken bricks and also made to stand on tiptoe in an uncomfortable position for long periods (known as the bicycle-riding position). Such treatment is in violation of the absolute prohibition against the use of torture and ill-treatment. The organisation has confirmed reports that monks held in detention were stripped of their robes and purposely fed in the afternoon, a time during which they are religiously forbidden from eating. The prevailing conditions in the detention centres, as well as the treatment of the detainees, constitute cruel, inhuman and degrading treatment and/or torture.

- *Amnesty International urges the Myanmar authorities to ensure that all persons deprived of their liberty or arrested by state authorities are treated with humanity and held in conditions respecting their dignity, security and good health, with adequate sleeping, living and sanitary conditions.*

Investigations and bringing perpetrators to justice¹¹

In addition to government soldiers and riot police, members of the government-backed Union Solidarity and Development Association (USDA) took violent action against the September 2007 protesters with government acquiescence or approval. Whether this group acted on direct government orders is not clear. Amnesty International has also confirmed that members of a group known as the Swan-Ar-Shin, or 'People Power', also participated in violently suppressing the protesters with government acquiescence or backing. There is evidence that the Myanmar authorities have been complicit in the abuses perpetrated by these groups, or negligent in failing to intervene, punish or prevent them. The culture of impunity that has pervaded Myanmar for decades is well-documented by Amnesty International. As a necessary first step toward bringing an end to all human rights abuses perpetrated by state and non state actors:

¹¹ "2. [The Human Rights Council] *Urges* the Government of Myanmar to ensure full respect for human rights and fundamental freedoms and to investigate and bring to justice perpetrators of human rights violations, including for the recent violations of the rights of peaceful protesters;" (UN Human Rights Council Resolution S-5/1, Section 2, adopted 2 October 2007 without a vote).

- *Amnesty International urges the Myanmar authorities to thoroughly investigate all reports of beatings, killings, torture and ill-treatment of detainees, unlawful arrests, and enforced disappearances described above, bringing perpetrators to justice and ensuring reparation for victims and survivors.*

Lifting restraints on political activity, and unhindered access to media information¹²

A large contingent of riot police took to the streets in Yangon and elsewhere in Myanmar on the weekend of 26-28 October in anticipation of demonstrations to mark the one-month anniversary of the September crackdown. Similarly, on 1 November, it is believed that access to the internet, which was cut on 28 September, was again blocked. Amnesty International has also received credible reports that, at the time of writing, despite the lifting of the curfew, the night raids and harassment described above continue to occur, with intermittent arrests.

- *Amnesty International urges the authorities to lift all restraints on peaceful political activity, and guarantee freedom of peaceful assembly and association and freedom of opinion and expression, including by allowing unhindered access to media and other forms of information.*

Full cooperation with humanitarian organizations¹³

While many UN organizations are able to remain at least partly operational in Myanmar, many others had their operations considerably curtailed in the wake of the crackdown. There is also evidence that even before the crackdown, food distribution was being used by the Government for political purposes, particularly in the ethnic states.¹⁴ Moreover, the International Committee of the Red Cross (ICRC) has been unable to operate in Myanmar since December 2005 beyond a number of small

¹² “4. [The Human Rights Council] *Further urges* the Government of Myanmar to lift all restraints on peaceful political activity of all persons by, inter alia, guaranteeing freedom of peaceful assembly and association and freedom of opinion and expression, including for free and independent media, and to ensure unhindered access to media information for the people of Myanmar;” (UN Human Rights Council Resolution S-5/1, Section 4, adopted 2 October 2007 without a vote).

¹³ “8. [The Human Rights Council] *Urges* the Government of Myanmar to cooperate fully with humanitarian organizations, including by ensuring full, safe and unhindered access of humanitarian assistance to all persons in need throughout the country;” (UN Human Rights Council Resolution S-5/1, Section 8, adopted 2 October 2007 without a vote).

¹⁴ See for example ‘Junta restrictions cause food shortages among Rohingyas’, Clive Parker, Irrawaddy, September 23, 2005. http://www.irrawaddy.org/article.php?art_id=5023

programs which do not include its core prison and detention-monitoring mandate. Visits to detention centres by the ICRC were suspended in January 2006 after the ICRC refused to accede to conditions that they be accompanied by members of government affiliated agencies.

- *Amnesty International urges the Myanmar authorities to fully cooperate with and facilitate meaningful access by humanitarian organizations to the country, including by allowing the ICRC back into the country on a meaningful basis, including free access to prisons and detention centres.*

During the crackdown there is evidence that ambulances were denied access to some of the victims on the streets, and that private medical clinics were ordered not to treat the wounded and injured. The obstruction of necessary medical relief to persons injured during the anti-government protests or the subsequent crackdown constitutes a violation of the right to life.

- *Amnesty International calls on the government of Myanmar to ensure that all medical staff be allowed to carry out their duties without undue delays or government interference.*

The government of Myanmar is clearly responsible for many violations of human rights during both the crackdown in late September and in the six weeks since. Having made assurances of cooperation with the UN to resolve the present crisis, the Myanmar authorities are failing to deliver the concrete human rights improvements the UN has called for as a matter of urgency.